Supreme Court, U.S.
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ALEXANDER L. STEVAS
CLERK

84-1548

In The

SUPREME COURT OF THE UNITED STATES

October Term, 1984

NO._____

John C. Amis, Jr.
Petitioner

v.

DICK STEELE, Lee County
Tax Collector, and LEE COUNTY,
a political subdivision of
the State of Florida,
Respondents

PETITION FOR A WRIT OF CERTIORARI
to the District Court of Appeal of Florida
Second District

Respectfully submitted,

John C. Amis, Jr.
In Propria Persona
2670 Maple Avenue
Fort Myers, Florida 33901
(813) 334-8266

83PP

QUESTIONS PRESENTED

In this Civil Case, in which Plaintiff alleged deprivation of rights protected by the First, Fifth, Ninth and Fourteenth Amendments, the Court of Appeal affirmed the Order of dismissal of the Circuit Court without an opinion or explanation. The Court so held notwithstanding that the Petitioner also alleged that the Constitution of the State of Florida protected Plaintiff's right to due process.

This petition presents important procedural questions about the proper role of and limitations upon a Circuit trial judge in resolving disputes between a citizen and his local government.

1. Whether a citizen has a right to be heard by the Court.

2. Whether the State can require payment in Federal Reserve Notes.

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OPINIONS BELOW

There are no opinions from the State Courts. However, the Order of the Circuit Court is set out in the Appendix at (App. D). The District Court of Appeal order is set out in the Appendix at (App. E) and the Supreme Court of Florida denied the Motion for Reinstatement on January 3, 1985 (App. G).

JURISDICTION

The judgment of the Court of Appeal of Florida, Second District, was entered on a motion for rehearing or for clarification on November 6, 1984. A notice of a Appeal from the judgment of the Second District Court of Appeal was filed in the Second District Court of Appeal of Florida on November 28, 1984.

This Court's jurisdiction is invoked pursuant to 28 USC 1257.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The due process and equal protection clauses of the Fourteenth Amendment to the United States Constitution provide:

> No State Shall — deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
>
> 1st Amendment — right to petition the Government for a redress of grievances.
>
> 5th Amendment — shall not be deprived of property without due process of law.
>
> Article 1, Section 10, Clause 1. No state shall make any Thing but gold and silver coin a tender in payment of debts.
>
> 9th Amendment — retained the right not to have to give up a right in order to obtain a right.
>
> 14th Amendment — due process of law and equal protection of the laws.

The Constitution of the State of Florida provides:

> Article 1, Section 3. Basic Rights — All natural persons are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry,

and to acquire, possess and protect property; except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race, religion or physical handicap.

Article 1, Section 21. Access to Courts — The Courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

STATEMENT OF THE CASE

1. Petitioner John C. Amis, Jr. ("Amis") is a firm believer in the United States Constitution. This belief has resulted in a study of the Constitution and research as to the intent of the Founding Fathers.

In particular, the intent of Article 1, Section 10, Clause 1 of the Constitution was to guarantee an absolute prohibition of paper money. See e.g., Documents illustrative of the Formation of the Union of the American States pp 627-628, Government Printing Office 1927.

In order to comply with the Constitution, Amis submitted to the tax collector "public office money certificates" — a form of promissory note (TI pg 6 Li 18) which obligates Amis to pay subject to the determination of the substance of the Money of Account as required by law at Title 31 U.S.C. Section 371.

When defendant, Dick Steele, tax collector of Lee County demanded that the payments be made in Federal Reserve Notes, Amis filed a complaint to determine if the prohibitation of Article 1, Sec. 10 was still in effect.

The lower court seemed allergic to or unable to understand pleadings based on the U.S. Constitution as shown by the Court's statement:

> "Let me interrupt you for a second. I have read this complaint while you were talking. I have listened, tried to listen to what you were telling me. I have no idea what you are telling me." (TI p. 5 Li 18)

The Circuit Court denied the application for preliminary injunction on July 19, 1982. (App. A)

The Circuit Court denied Defendants' motion to dismiss on February 2, 1983, and ordered Defendant to file an answer within 20 days. (App. B)

Defendants did not file an answer, but did file a motion to vacate order and the Court issued an Order to Vacate the order of February 2, 1983 Order. (App. C)

After Plaintiff had amended the complaint three times the Court dismissed with prejudice on January 9, 1984. (App. D)

The Second District Court of Appeal of Florida Affirmed PER CURIAM September 14, 1984 (App. E). Petitioner filed a motion for rehearing on September 26, 1984 (App. F), which was denied by the Court on November 6, 1984 (App. G).

The Supreme Court of Florida denied the Motion for Reinstatement on January 3, 1985 (App. F).

The Circuit Court's Order of Dismissal contains no explanation and is accompanied by no opinion.

In fact no opinions are given by any of the Courts as to why the Complaint was dismissed.

The Courts have simply denied Amis his due process rights and thrown him out of Court.

REASONS FOR GRANTING THE PETITION

As the bureaucracy grows and the government becomes more restrictive of the unalienable Rights of the Soverign Citizens, the Courts are overflowing with civil rights cases brought by citizens against state or local governments or their employees. The denial of Due Process by the inferior Courts seems to encourage the administrative officials and Boards to formulate more rules and regulations with which to harass the taxpayers.

This case presents two issues: denial of due process and an issue on "money" on which the United States Supreme Court has never ruled. Namely can any State make Non Negotiable, Non Redeemable Federal Reserve Notes the Thing to be used by the states in payment of debts.

The Supreme Court has ruled that Congress is authorized to establish a national currency, whether in coin or paper (Negotiable and redeemable in gold and silver coin) as regards the national government or private individuals. **Juliard** v. **Greenman** 110 U.S. 421, (March 3, 1884)

That this decision in no way affected the States is made clear by the same Supreme Court two months later when it ruled in **George Hagar** v. **Reclamation District No. 108** 111 U.S. 701, 704 (May 5, 1884). The acts of Congress making the notes of the United States a legal tender do not apply to involuntary contributions exacted by a State, but only to debts, in the strict sense of the term, that is, to obligations for the payment of money founded on contracts, express or implied.

Mr. Justice Field who wrote the opinion in Hager (supra) had already stated in Julliard (pg 470 supra):

> "If there by anything in the history of the Constitution which can be established with moral certainty, it is that the framers of that instrument intended to prohibit the issue of legal tender notes both by the General Government and by the

states; and thus prevent interference with the contracts of private parties. During the Revolution and the period of the old Confederation, the Continental Congress issued bills of credit, and upon its recommendation the States made them a legal tender, and the refusal to receive them as extinguishment of the debts for which they were offered. They also enacted severe penalties against those who refused to accept them at their nominal value, as equal to coin, in exchange for commodities. And previously, as early as January, 1776, Congress had declared that, if any person should be so lost to all virtue and regard for his country as to refuse to receive in payment the bills then issued, he should, on conviction thereof, be 'Deemed, published and treated as an enemy of his country, and precluded from all trade and intercourse with the inhabitants of the Colonies.'

Yet, this legislation proved ineffectual; the universal law of currency prevailed, which makes promises of money valuable only as they are convertible into coin. The notes depreciated until they became valueless in the hands of their possessors. So it always will be; legislative declaration cannot make the promise of a thing the equivalent of the thing itself.

The legislation to which the States were thus induced to resort was not confined to the attempt to make paper money a legal tender for debts;

> but the principle that private contracts could be legally impaired, and their obligation disregarded, being once established, other measures equally dishonest and destructive of good faith between parties were adopted."

The lower Courts have dismissed this case without any hearing on the facts or the law and have denied Amis his day in Court.

Florida is replete with case law attesting to the right of Petitioner to be heard.

In testing the complaint on a Motion to Dismiss for failure to state a cause of action, all facts properly pleaded are deemed to be admitted and true. **Ahrens** v. **Hayworth** App. 1966 189 So.2d 163.

A Defendant moving to dismiss a complaint is deemed, for purposes of ruling on the Motion, to have admitted all facts well pleaded in the complaint, as well as all reasonable inferences arising from these facts. **Russell** v. **Community Blood Bank, Inc.** App. 1966 195 So.2d 749, reversed on other grounds, 196 So.2d 115. When evaluating a motion to dismiss a complaint, the trial court must look solely to the allegations of the complaint. **City of St. Augustine** v. **Authentic Old Jail, Inc.** App. 1980 338 So.2d 1044.

An action should be dismissed only on the most blatant showing of fraud, pretense, collusion or other similar wrong doing. **Young** v. **Curgil** App. 1978, 358 So.2d 58.

Further, the Supreme Court unanimously agreed that regardless of the merits of Petitioner's allegations, that he is entitled to an opportunity to offer proof. **Francis Haines** v. **Otto J. Kerner** 404 U.S. 519 (1972).

One of the basic rights guaranteed by the First Amendment to the Constitution is the right to petition the Government for a redress of grievances.

The lower Court refused to hear the petition which permitted the Tax Collector to sell the property of Amis

when Amis refused to comply with the Order to Tender Federal Reserve Notes.

This is not a case where the Tax Collector is threatening to enforce a statute **Poe v. Ullman** 367 U.S. 497 (1961). This is a case in which the Tax Collector forced the sale of Amis' property without any reliance on any state statute which required that the tax bills be paid in Federal Reserve Notes.

The Constitution of the State of Florida (1968) has nothing on what shall be used as tender in payment of Debts, but go back beyond when Florida became a State on March 3, 1845.

(a). The Constitution of the Territory of Florida (1838): Art. XIII, Section 7: All liabilities of such banks shall be payable in specie, —

(b). Constitution of 1861: Art. XIII Section 6: All liabilities of such banks shall be payable in specie, —

(c). Constitution of 1865: Art. XIII Section 5: All liabilities of such banks shall be payable in specie —

(d). Constitution of 1868: Omitted; nothing (may be related to the use of Confederate paper money)

(e). Constitution of 1885: Nothing.

(f). Constitution of 1968: Nothing as noted above.

Amis admits that no law can be passed impairing the Obligation of Contracts (Art. 1, Sec. 10) and if Amis tenders wampum, bullets, tobacco, country produce or Federal Reserve Notes for payment of the tax bills it is the State's choice to accept the offer or reject it. BUT the State cannot make wampum, bullets, tobacco, country produce or Federal Reserve Notes the Thing that is required as a tender in payment of debts. The one and only Thing that the state can make as a tender in payment of debts is Coin (gold and silver).

Petitioner has been denied his right guaranteed by the First Amendment to petition the government for grievance.

Petitioner has been deprived of his property without due process of law as guaranteed by the Fifth and Fourteenth Amendments.

Petitioner has been denied his due process rights and as the Supreme Court stated in **Miranda** v. **Arizona** 384, U.S. 436, 16L ed2d 694, 733 (1966):

> "where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."

CONCLUSION

For the foregoing reasons the Writ of Certiorari should issue?

Respectfully submitted,

John C. Amis, Jr.
In Propria Persona
2670 Maple Avenue
Fort Myers, Florida 33901
(813) 334-8266

IN THE CIRCUIT COURT OF THE
TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA
CIVIL ACTION

AMEY, INC., a Florida Corporation, and JOHN C. AMIS, JR., Plaintiffs,	)	
vs.	)	Case No. 82-1718 CA-WJN
DICK STEELE, Lee County Tax Collector, Defendant	)	

ORDER

THIS CAUSE coming on before me upon the application for preliminary injunction filed by the Plaintiffs and the Court having considered the said application for preliminary injunction, it is accordingly,

ORDERED ADJUDGED AND DECREED that application for preliminary injunction be and the same is hereby denied.

DONE AND ORDERED on this 19th day of July, 1982, in Fort Myers, Lee County, Florida.

s/William J. Nelson
CIRCUIT JUDGE

Copy of proposed order mailed to Ken Jones, July 9, 1982.

IN THE CIRCUIT COURT OF THE
TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA
CIVIL ACTION

AMEY, INC., a Florida Corporation, and JOHN C. AMIS, JR., Plaintiffs,	)	
vs.	)	Case No. 82-1718 CA-WJN
DICK STEELE, Lee County Tax Collector, Defendant	)	

ORDER

THIS CAUSE having come on to be heard upon Defendant's Motion to Dismiss and Motion to Strike and the Court being otherwise fully advised in the premises, it is

ORDERED and ADJUDGED that Defendant's Motion to Dismiss and Motion to Strike are hereby denied. Defendant shall have 20 days from the date of this order within which to file an answer to the complaint.

DONE and ORDERED in chambers this 2nd day of February, 1983.

s/William J. Nelson
CIRCUIT COURT JUDGE

Copies furnished to:

KENNETH A. JONES, Esq.
HUMPHREY, JONES & MYERS, P.A.
1625 Hendry Street
Fort Myers, Florida 33901

Amey, Inc., & John C. Amis, Jr.
2670 Maple Avenue
Fort Myers, Florida 33901

IN THE CIRCUIT COURT OF THE
TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA
CIVIL ACTION

AMEY, INC., a Florida Corporation, and JOHN C. AMIS, JR., Plaintiffs,	)	
vs.	)	Case No. 82-1718 CA-WJN
DICK STEELE, Lee County Tax Collector, Defendant	)	

ORDER

THIS CAUSE having come on to be heard upon Defendant's Motion to Vacate Order and the Court having heard argument of counsel, and being otherwise duly advised in the premises, it is

ORDERED and ADJUDGED that Defendant's Motion to Vacate the Order entered by this Court on February 2, 1983 is hereby granted, such Order being hereby vacated and of no further effect. Defendant's Motions to Dismiss and to Strike may be set by either party at their discretion.

DONE and ORDERED in chambers this 14th day of March, 1983.

s/William J. Nelson
CIRCUIT COURT JUDGE

Service of the foregoing Order
pursuant to Rule 1.080, is made
on this 14th day of March, 1983, upon:

John C. Amis, Jr.
Amey, Inc.

By: Marcia Garrett
Secretary to Judge Nelson

Kenneth A. Jones, Esq.

IN THE CIRCUIT COURT OF THE
TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA
CIVIL ACTION

AMEY, INC., a Florida Corporation, and JOHN C. AMIS, JR., Plaintiffs,	)	
vs.	)	Case No. 82-1718 CA-WJN
DICK STEELE, Lee County Tax Collector, Defendant	)	

FINAL ORDER

THIS CAUSE having come on to be heard upon Defendant DICK STEELE, Lee County Tax Collector's Motion to Dismiss, and the Court having heard argument of counsel, and being otherwise duly advised in the premises, it is

ORDERED and ADJUDGED that Defendant's Motion to Dismiss is hereby granted with prejudice.

DONE and ORDERED in chambers this 14th day of May, 1984.

s/William J. Nelson
CIRCUIT COURT JUDGE

Service of the foregoing Order
pursuant to Rule 1.080, is made
on this 14th day of May, 1984, upon:

John E. Hendry, Esq.
Kenneth A. Jones, Esq.
John C. Amis, Jr.

By: Marcia Garrett
Secretary to Judge Nelson

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION AND,
IF FILED, DETERMINED.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

AMEY, INC., a Florida Corporation, and JOHN C. AMIS, JR., Appellants,	)	
vs.	)	Case No. 84-289
DICK STEELE, Lee County Tax Collector, Appellee.	)	

Opinion filed September 14, 1984.

Appeal from the Circuit
Court for Lee County;
William J. Nelson, Judge.

John E. Hendry, Fort Myers,
for appellant Amey, Inc.,
and John C. Amis, pro se,
Fort Myers.

George H. Knott of
Humphrey, Jones & Myers,
Fort Myers, for Appellee.

PER CURIAM.

Affirmed.

HOBSON, A.C.J., BOARDMAN and SCHOONOVER, JJ.,
Concur.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

AMEY, INC., a Florida Corporation, and JOHN C. AMIS, JR., Appellants,	)	
vs.	)	Case No. 84-289
DICK STEELE, Lee County Tax Collector, Appellee.	)	

MOTION FOR REHEARING

COMES NOW, John C. Amis, Jr., and files this Motion for Rehearing and states as follows:

1. Appellant, John C. Amis, Jr. has been denied access to the Courts in violation of Article 1, Section 21, of the Constitution of Florida.

2. Appellant, John C. Amis, Jr. has been denied his rights as guaranteed by the First, Fifth, Ninth and Fourteenth Amendments to the United States Constitution.

3. The central issues are the right to petition the Government for a redress of grievances and due process as stated in **Fuentes** v. **Shevin** 407 U.S. 67, 80 32 LEd2d 556,569 (1972):

> "The central meaning of procedural due process is that the party whose rights are to be affected are entitled to be heard."

4. Appellant Amis, as a Pro Se, may not meet the stringent standards of formal pleadings drafted by lawyers, but as the Supreme Court stated in **Haines** v. **Kerner** 404, U.S. 519, 30 LEd2d 562,654 [3]:

> "Accordingly, although we intimate no view whatever on the merits of Petitioner's allegations, we conclude that he is entitled to an opportunity to offer proof."

WHEREFORE, for the above stated reasons, Appellant moves this honorable Court for a rehearing and if it please the Court, grant oral argument on the due process issues raised in this case.

Respectfully submitted,

John C. Amis, Jr.
2670 Maple Avenue
Fort Myers, Florida 33901
(813) 334-8266

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the foregoing was mailed to George H. Knott, 1625 Hendry Street, Suite 301, Fort Myers, Florida, this 26th day of September, 1984.

John C. Amis, Jr.
2670 Maple Avenue
Fort Myers, Florida 33901
(813) 334-8266

IN THE SECOND DISTRICT COURT OF APPEAL,
LAKELAND, FLORIDA

NOVEMBER 6, 1984

AMEY, INC., a Florida Corporation, and JOHN C. AMIS, JR., Appellants,	)	
vs.	)	Case No. 84-289
DICK STEELE, Lee County Tax Collector, Appellee.	)	

Appellant, John C. Amis, Jr., pro se, having filed a motion for rehearing in the above-styled case, upon consideration, it is

ORDERED that said motion is hereby denied.

A TRUE COPY
ATTEST:

CLERK DISTRICT COURT OF APPEAL
SECOND DISTRICT

cc: John E. Hendry
John C. Amis
George H. Knott

SUPREME COURT OF FLORIDA

THURSDAY, JANUARY 3, 1985

JOHN C. AMIS, JR., Appellant,	)	
vs.	)	Case No. 66,225
	)	District Court of Appeal,
DICK STEELE, etc., Appellee.	)	2d District — No. 84-289

Upon consideration of the Motion for Reinstatement filed in the above cause by appellant,

IT IS ORDERED that said Motion be and the same is hereby denied.

A True Copy
TEST:

Sid J. White
Clerk Supreme Court

By: Tanya Carroll
Deputy Clerk

TC
cc: Hon. William A. Haddad, Clerk
Hon. William J. Nelson, Judge
Hon. Sal Geraci, Clerk

Mr. John C. Amis, Jr.
George H. Knott, Esquire